

GERSTEN, SAVAGE, KAPLOWITZ, WOLF & MARCUS, LLP

600 LEXINGTON AVENUE  
NEW YORK, N.Y. 10022-6018  
TELEPHONE: (212) 752-9700  
FAX: (212) 980-5192  
info@gskny.com  
www.gskny.com

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February 10, 2005

VIA FACSIMILE (212-688-6151)  
and REGULAR MAIL

James P. Jalil, Esq.  
Shustak Jalil & Heller  
400 Park Avenue, 14th Floor  
New York, NY 10022

Re: Merit Capital Group, LLC v. Trio Industries Management, LLC, et al.  
Case No. 04 CIV 7690 (RCC)

Dear Mr. Jalil:

As you know, defendants-third-party plaintiffs' responses to plaintiff-third-party defendants' document demands and interrogatories were due to be served one week ago, on February 3, 2005, but your clients have not done so (and I have received no request by you for any extension).

Defendants already have had 40 days in which to respond to plaintiff's discovery requests, which are more than sufficient time for your clients to respond to the outstanding discovery requests. Please serve your clients' responses by February 17, 2005 – which affords you an additional 7 days – or else I will have no choice but to seek the court's intervention in order to compel compliance with my clients' discovery requests.

If you have any questions, please feel free to contact me.

Very truly yours,



Marc R. Rosen

MRR/nw

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May 4, 2005

VIA FACSIMILE (212-688-6151)

Susan C. Stanley, Esq.  
Shustak Jalil & Heller  
400 Park Avenue, 14th Floor  
New York, NY 10022

Re: Merit Capital Group, LLC v. Trio Industries Management, LLC, et al.  
Case No. 04 CIV 7690 (RCC)

Dear Susan:

I have reviewed Defendants' and Third-Party Plaintiffs' Responses to the First Notice for Discovery and Inspection as well as Defendants' and Third-Party Plaintiffs' Responses to the First Set of Interrogatories, and these responses are seriously deficient in numerous respects.

Defendants' and third-party plaintiffs' document responses are grossly incomplete. Specifically, defendants and third-party plaintiffs have not produced any documents at all in response to requests 19-33, 36-40, 65-98, 108-120, and 125; and defendants' and third-party plaintiffs' response to request 107 is incomplete. In addition, please advise me whether defendants and third-party plaintiffs have produced *all* documents responsive to requests 1-5, 7-18, 41-64, 99-106, 121-124, and 126-127, and whether they have withheld from production any documents on the purported grounds that they are not "public" or are "privileged"; and if any such documents have been withheld from production, kindly produce all "non-public" documents, which are certainly discoverable, and in either case provide me with an appropriate log of all withheld documents.

Likewise, defendants' and third-party plaintiffs' interrogatory responses are severely deficient. Defendants and third-party plaintiffs have not at all responded to interrogatories 3, 6, 11-15, 18, and 19. Moreover, their responses to interrogatories 4 and 24 are incomplete.

Please supplement and correct the numerous deficiencies in defendants' and third-party plaintiffs' interrogatory and document responses immediately. The information and documents withheld by defendants and third-party plaintiffs are critical to plaintiff's and third-party defendants' case.

GERSTEN, SAVAGE, KAPLOWITZ, WOLF & MARCUS, LLP

Susan C. Stanley, Esq.

May 4, 2005

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Kindly let me know when I can expect to receive the foregoing supplemental discovery responses.

Very truly yours,



Marc R. Rosen

MRR/nw

**Marc Rosen**

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**From:** Marc Rosen  
**Sent:** Monday, May 23, 2005 12:57 PM  
**To:** 'Susan C. Stanley'  
**Subject:** Merit/Trio

Susan, I still have not heard back from you concerning the deficiencies in defendants/third-party plaintiffs' document production and interrogatory responses, as set forth in my May 4 letter to you. Defendants/third-party plaintiffs' failure to supplement their discovery responses are severely prejudicing my clients and have interfered with our ability to proceed with depositions timely. Please let me know when you intend to supplement your clients' discovery responses. Thank you.

- Marc

Marc R. Rosen  
Gersten, Savage, Kaplowitz, Wolf & Marcus, LLP  
600 Lexington Avenue  
New York, NY 10022  
(212) 752-9700  
(212) 980-5192 (facsimile)